

DISCLAIMER

This electronic version of an SCC order is for informational purposes only and is not an official document of the Commission. An official copy may be obtained from the [Clerk of the Commission, Document Control Center](#).

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, MARCH 12, 2003

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

v.

CASE NO. PUE-2002-00414

COLUMBIA GAS OF VIRGINIA, INC.,

Defendant.

ORDER OF SETTLEMENT

The Accountable Pipeline Safety and Partnership Act of 1996, 49 U.S.C. § 60101 et seq. ("Act"), formerly the Natural Gas Pipeline Safety Act, requires the Secretary of Transportation ("Secretary") to establish minimum federal safety standards for the transportation of gas and pipeline facilities. The Secretary is further authorized to delegate to an appropriate state agency the authority to prescribe safety standards and enforce compliance with such standards over gas pipeline facilities used for intrastate transportation.

The Virginia State Corporation Commission ("Commission") has been designated as the appropriate state agency for the Commonwealth of Virginia to prescribe and enforce compliance with standards for gas pipeline facilities used for intrastate transportation. In Case No. PUE-1989-00052, the Commission adopted Parts 191, 192, 193, and 199 of Title 49 of the Code of Federal Regulations to serve as minimum gas pipeline safety standards ("Safety Standards") in Virginia. The Commission is authorized to enforce the Safety Standards under § 56-5.1 of the Code of Virginia, which allows the Commission to impose the fines and penalties authorized therein.

The Commission's Division of Utility and Railroad Safety ("Division"),¹ charged with the investigation of each jurisdictional gas company's compliance with the Safety Standards, has conducted various inspections of construction, operation, and maintenance activities involving the Columbia Gas of Virginia, Inc. ("CGV" or "Company"), the Defendant, and alleges that:

(1) CGV is a public service corporation as that term is defined in § 56-1 of the Code of Virginia and, specifically a natural gas company within the meaning of § 56-5.1 of the Code of Virginia; and

(2) The Company violated the Commission's Safety Standards by the following conduct:

- a) 49 C.F.R. § 192.195 (a) – Failing to have a pressure relieving or pressure limiting device that meets the requirements of 49 C.F.R. §§ 192.199 and 192.201;
- b) 49 C.F.R. § 192.199 (g) – Failing on two occasions to install a regulator station such that a single incident would not affect the operation of both the overpressure protective device and the district regulator;
- c) 49 C.F.R. § 192.199 (h) – Failing to lock the regulator station bypass valve to prevent unauthorized operation;
- d) 49 C.F.R. § 192.303 – Failing to follow Company's Policy and Procedure Reference No. 644-3, Section 3, by not having a means to verify the temperature of a heating iron;
- e) 49 C.F.R. § 192.355 (b)(2) – Failing on several occasions to install service regulator vents away from openings into buildings;
- f) 49 C.F.R. § 192.605 (a) – Failing to follow Company's Policy and Procedure Reference No. 644-4, Section 1, General, by not installing a protective sleeve on the outlet of a service tee requiring socket fusion;

¹ Effective July 1, 2002, the Commission created the Division of Utility and Railroad Safety out of the Division of Railroad Regulation and part of the Division of Energy Regulation.

- g) 49 C.F.R. § 192.605 (a) – Failing to follow Company's Policy and Procedure Reference No. 654-4(38) 4, by not using trained personnel to inspect a regulator station;
- h) 49 C.F.R. § 192.605 (a) – Failing to follow Company's Policy and Procedure Reference No. 654-4(38)1.1.2(b), by not inspecting a regulator to determine that it is in good mechanical condition;
- i) 49 C.F.R. § 192.605 (a) – Failing to follow Company's Policy and Procedure Reference No. 654-4(38)1.1.2(c), by not inspecting a regulator to determine that it is set to function at the correct pressure;
- j) 49 C.F.R. § 192.605 (a) – Failing to follow Company's Policy and Procedure Reference No. 654-4(38)1.1.2(d), by not inspecting a regulator to determine that it is properly installed;
- k) 49 C.F.R. § 192.605 (a) – Failing to follow Company's Policy and Procedure Reference No. 445-4, Section 5, by not removing, or placing at a safe distance from the excavation, any known or potential source of ignition;
- l) 49 C.F.R. § 192.605 (a) – Failing to follow Company's Policy and Procedure Reference No. 640-7, Section 4, by failing to have and follow a written plan for the main tie-in and bypassing operation;
- m) 49 C.F.R. § 192.605 (a) – Failing to follow Company's Policy and Procedure Reference No. 445-4, Section 4(a), by not taking combustible gas readings prior to entering an excavation where gas or other combustibles could be present;
- n) 49 C.F.R. § 192.605 (a) – Failing to follow Company's Policy and Procedure Reference No. 445-4, Section 4(c), by not wearing an oxygen monitor in an excavation;
- o) 49 C.F.R. § 192.605 (a) – Failing on several occasions to follow Company's Policy and Procedure Reference No. 445-4, Section 4(d), by not wearing the proper personal protective equipment in an excavation where gas is likely to be introduced;
- p) 49 C.F.R. § 192.605 (a) – Failing to follow Company's Policy and Procedure Reference No. 445-4, Section 5, by not having one competent above ground attendant for each employee working in the excavation;

- q) 49 C.F.R. § 192.605 (a) – Failing to follow Company's Policy and Procedure Reference No. 640-7, Section 3, by not having a company representative on-site during the tie-in and bypass operation;
- r) 49 C.F.R. § 192.605 (a) – Failing to follow Company's Policy and Procedure Reference No. 640-7, Section 3, by not having a company representative on-site during the removal of the squeeze-off units;
- s) 49 C.F.R. § 192.605 (a) – Failing to follow Company's Policy and Procedure Reference No. 640-8, Section 3.3.a, by not providing a fire extinguisher at an activated vent point for purging the pipeline;
- t) 49 C.F.R. § 192.605 (a) – Failing to follow Company's Policy and Procedure Reference No. 640-10, Section 2.2, by not grounding cutting tools;
- u) 49 C.F.R. § 192.605 (a) – Failing to follow Company's Policy and Procedure Reference No. 640-10, Section 2.2, by not grounding squeeze-off units prior to performing the squeeze-off procedure;
- v) 49 C.F.R. § 192.605 (a) – Failing to follow Company's Policy and Procedure Reference No. 640-10, Section 4.3, by using squeeze-off units which do not have over squeeze protection built into the units;
- w) 49 C.F.R. § 192.605 (a) – Failing to follow Company's Policy and Procedure Reference No. 640-2, Section 26.2, by not grounding plastic pipe;
- x) 49 C.F.R. § 192.605 (a) – Failing to follow Company's Policy and Procedure Reference No. 640-7, Section 9 and Procedure Reference No. 640-10, Section 2.3, by not checking a section of main for leak through during a squeeze off operation;
- y) 49 C.F.R. § 192.605 (a) – Failing to follow Company's Policy and Procedure Reference No. 640-1, Section 9.2, by not inspecting coating on a steel main with a holiday detector;
- z) 49 C.F.R. § 192.605 (a) – Failing to follow Company's supplement to tie-in and by-pass plans, by not manning a fire extinguisher during the tie-in and by-pass operation;
- aa) 49 C.F.R. § 192.621 (b) – Failing to properly install overpressure protection at a regulator station;

- bb) 49 C.F.R. § 192.707 (c) - Failing to install a pipeline marker;
- cc) 49 C.F.R. § 192.707 (d)(2) - Failing on several occasions to have the company name and telephone number on a pipeline marker;
- dd) 49 C.F.R. § 193.2017 (a) – Failing to maintain at the Company's LNG plant all the plans and procedures required for the plant;
- ee) 49 C.F.R. § 193.2509 (a) – Failing to include procedures relative to keeping local officials advised of communication and emergency control capabilities at the Company's LNG plant;
- ff) 49 C.F.R. § 199.101 - Failing to follow a written drug plan by using employees that are not "covered employees" to perform covered tasks;
- gg) 49 C.F.R. § 199.115 (a) - Failing to ensure that the anti-drug requirements are complied with by contractor employees by allowing contractor employees that are not "covered employees" to perform covered tasks;
- hh) 49 C.F.R. § 199.202 - Failing to follow a written alcohol plan by using employees that are not "covered employees" to perform covered tasks; and,
- ii) 49 C.F.R. § 199.245 (b) - Failing to ensure that the alcohol plan requirements are complied with by contractor employees by allowing contractor employees that are not "covered employees" to perform covered tasks.

The Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters arising from the allegations made against it, CGV represents and undertakes that:

(1) The Company shall pay a fine to the Commonwealth of Virginia in the amount of \$162,650, of which \$152,650, shall be paid contemporaneously with the entry of this Order. The remaining \$10,000 is due as outlined in Paragraph (2), below, and may be suspended in whole, or in

part, provided the Company tenders the requisite certification that it has completed specific remedial actions, as set forth below in Paragraph (2) on or before the scheduled date for completion of said remedial action. At the completion of all remedial actions described below, the Commission may vacate any outstanding amounts. The initial payment and any subsequent payments shall be made by check, payable to the Treasurer of Virginia, and directed to the attention of the Director of the Division of Utility and Railroad Safety;

- (2) The Company shall take remedial actions pursuant to the following schedule:
 - (i) The Company shall revise its operating and maintenance manuals within 30 days of the date of this Order, as follows:
 - a) Company Policy and Procedure Reference No. 640-2, Section 26.2, shall be revised to include provisions for the electrical grounding of plastic mains and services prior to performing any tapping operations, whether for service or tie-in and bypass operations.
 - b) Company Policy and Procedure Reference No. 640-7, Section 3, shall be revised to include provisions to require persons qualified in the work being performed are present during all main tie-in operations.
 - c) Company Policy and Procedure Reference No. 445-4, Section 4(a), shall be revised to include provisions for taking combustible gas indicator readings at least once per day before entering an excavation or trench containing live gas facilities.
 - d) Company Policy and Procedure Reference No. 445-4, Section 5, shall be revised, in part, to change the reference from Company Policy and Procedure Reference No. 445-4, Section 4(c) to Company Policy and Procedure Reference No. 445-4, Section 4(e).
 - (ii) The Company shall take the following corrective actions as follows:
 - a) Within 30 days of the date of this Order, the Company shall relocate regulator relief vents to achieve adequate distance away from the nearest openings into the buildings in Woodland Park in Herndon, Virginia cited in Staff's pipeline safety report number 375.

- b) Within 180 days of the date of this Order, all squeeze-off tools used by the Company must have over-squeeze protective devices installed.
- (iii) Upon completion of the items found in Paragraphs 2 (i)(a) through 2(i)(d) and 2(ii)(a) above, CGV shall tender to the Clerk of the Commission an affidavit within 45 days of the date of this Order, certifying that the Company has revised its operating and maintenance manuals to comply with this order.
- (iv) Upon completion of the item found in Paragraph 2 (ii)(b), CGV shall tender to the Clerk of the Commission an affidavit within 195 days of the date of this Order, certifying that the Company has completed the corrective actions necessary to comply with this order.
- (v) Upon timely receipt of said affidavits, the Commission may suspend up to \$10,000 of the fine amount specified in Paragraph (1) above. Should CGV fail to tender either affidavit or take the actions required by Paragraphs (2)(i)(a) through 2(i)(d), or Paragraphs 2(ii)(a) and 2(ii)(b), a payment of \$10,000 shall become due and payable. The Company shall immediately notify the Division of the reasons for its failure to accomplish the actions required by these paragraphs specified herein and upon investigation, if the Division determines that the reason for said failure justifies a payment lower than \$10,000, it may recommend to the Commission a reduction in the amount due or suspension of the fine. The Commission shall determine the amount due or whether the fine should be suspended. Upon the Commission's determination of the amount due, the Company shall immediately tender to the Commission that amount.

(3) Any fines paid in accordance with this Order shall not be recovered in the Company's rates as part of CGV's cost of service. Any such fines and costs shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the trial balance showing this entry with the Commission's Division of Public Utility Accounting.

The Commission, being fully advised in the premises of the foregoing and finding sufficient basis herein for the entry of this Order, and in reliance on the Defendant's representations and undertakings set forth above, is of the opinion and finds that CGV has made a good faith effort to cooperate with the

Staff during the investigation of this matter; and that, the offer of compromise and settlement should be accepted.

Although we accept the offer of compromise and settlement, we have serious concerns regarding the severity, number, and nature of the alleged violations in this and prior proceedings. The Commission directs the Company to take the steps, and to devote the resources, necessary to comply with its policies and procedures and with Virginia law and regulations, including the Safety Standards.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of compromise and settlement made by CGV be, and it hereby is, accepted.

(2) Pursuant to § 56-5.1 of the Code of Virginia, CGV be, and it hereby is, fined in the amount of \$162,650.

(3) The sum of \$152,650 tendered contemporaneously with the entry of this Order is accepted.

(4) The remaining \$10,000 is due as outlined herein and may be suspended and subsequently vacated, in whole or in part, as provided on pages 6 and 7 herein.

(5) The Commission shall retain jurisdiction over this matter for all purposes, and the matter is continued, pending further orders of the Commission.